

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

ED JOHNSON,	)	
	)	
Petitioner/Defendant,	)	
	)	
v.	)	Criminal Action No. 08-146-LPS
	)	Civil Action No. 12-403-LPS
UNITED STATES OF AMERICA,	)	
	)	
Respondent/Plaintiff.	)	

**MEMORANDUM ORDER**

At Wilmington this **18th** day of **November, 2013**:

WHEREAS, Petitioner Ed Johnson (“Petitioner”), having filed a motion requesting that the Court issue a certificate of appealability (D.I. 317), to permit him to seek appellate review of the Court’s denial of his Section 2255 Motion (D.I. 316);

WHEREAS, the government having filed an answer in opposition (D.I. 320), which observes that Petitioner’s motion for a certificate of appealability revisits the same arguments already made in his Section 2255 Motion (*see id.* at 2);<sup>1</sup>

WHEREAS, the Court having carefully considered the parties’ submissions, including Petitioner’s Reply (*see* D.I. 322), filed on November 1, 2013, which again revisits the same arguments contained in his Section 2255 Motion;

IT IS HEREBY ORDERED that Movant’s Motion (D.I. 217) is DENIED.

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<sup>1</sup>The Court’s Memorandum Order denying Petitioner’s Section 2255 Motion addresses ineffective assistance of counsel claims relating to counsel’s trial preparation (D.I. 316 at 3), cross-examination of government witnesses (*id.* at 5), objections to government exhibits (*id.* 6), handling of a continuance request (*id.*), decision to retain additional expert testimony (*id.* at 7), handling of a variance request (*id.* at 8), and handling of Petitioner’s right to testify (*id.* at 8-9). The Court also addressed Petitioner’s claims that he was subjected to prosecutorial misconduct and extreme and unconstitutional punishment. (*Id.* at 9-10) Petitioner raises these arguments again in his Motion for Certificate of Appealability. (*See e.g.*, D.I. 317 at 3-7) But these same arguments fare no better in the present procedural context.

The Court will not issue a certificate of appealability. Petitioner has failed to “ma[k]e a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Reasonable jurists would not find this assessment debatable. *See id.*; *see also Slack v. McDaniel*, 529 U.S. 473, 484 (2000); Fed. R. App. P. 22; Local App. R. 22.2.



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UNITED STATES DISTRICT JUDGE